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LETTERS
CONCERNING
THE
EAST-INDIA
Company.

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*A Letter from a Countrey Gentleman, to a
Barrister of the Inner Temple,
LONDON.*

SIR,

The last Post brought me news of such *Factions* and *Divisions* in the *East-India Company* as (my Friend saies) have shaken their Credit; and adds, that one of the *Factions* had induced his *Majesty* to interpose by *Letters* in the *Election* of their *Governors* and *Committees*, and to prohibit their choice of some persons by name: I can easily conclude that those *Letters* will not extinguish the Strifes amongst them; perhaps they will make every man jealous of his *Liberty* and *Property*, but I am not able to resolve what is best for me to do upon it: All my Stock for my younger *Children* Provisions, I placed in that *Companies* hands at *Interest*, and have their *Common Seal* for it, believing it the best Security now left in *England*, presuming that I might have it upon demand, as my occasions should require; But I hear that many of the *Company's Creditors* have called for their Money from them in all haste; and a *Neighbour* of mine puts many Seruples in my head about my Security by their *Common Seal*, and questions their Standing when the *Parliament* shall sit: I pray make Enquiry for me into the whole Affair, and let me have your Opinion in

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Law.

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Law, whether my Security be good; and your Advice in Prudence, whether I shall Trust my Money any longer in the Company's hands: Your Pains in it shall not be lost, nor your Kindness forgotten by,

SIR,

Your most, &c.

The Barrister's Answer.

SIR,

YOur Demand of my Opinion of the Sufficiency of the East-India Company's Common Seal, to Secure your Childrens Money, hath made me peruse their Charter, and Discourse a Principal Merchant amongst them about their Trade, and their present Distractions; but what hath passed between the Court and them ought to be like a *Noli me tangere* to one of my Profession; and I know you will excuse me if I say nothing of it; but to advise about your Money is my Duty.

I suppose you were induced to put your Money into that Company's hands, by the Riches and the Repute of the Members of it; believing that you had not only three or four able

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able men bound for your Security, but perhaps a hundred of the most Wealthy and Creditable Traders of all *England*: I know they were cryed up as infallible Security, and *Lenders* thought themselves obliged to the *Company* to accept their *Moneys at Interest*: this Reputation was such a Net, as caught the Fish by Sholes, and enabled them to borrow about 600000*l.* every *Lender* thinking he had so many Rich men in his Chest, when he had the *Company's Seal* there; but I am afraid you will scarce Credit me, if I tell you that their *Seal* is less Security for your *Money*, than the Word of any Sufficient Man in the *Company*; For their *Common Seal* binds not any one of the *Company's Persons*, nor *Estates*, either real or personal; you can neither Arrest, nor Implead great nor small amongst them upon their *Common Seal*; and if you should demand your *Money* of any particular person, he would but laugh at you, and bid you go to the *Company* with your *Seal*, for he owes you not a Groat.

Tis true, the *Company* may be Sued (if their *Creditors* please) for 500000*l.* or 600000*l.* or more this *Term*, and in two or three *Terms* they may have *Judgment* against the *Company* upon their several *Seals*, but they can have no Execution against any Member of the *Company*, nor his Goods; they may take the *Company's Goods and Chattels* in Execution if they can find any; they might extend the *Company's Land*, if they had any; but who can tell where to seize Goods of the *Company's* to pay the *Creditors* five *Shilling per Pound*? Yet, admitting there were Goods of greater value belonging to the *Company*, when the *Sutes* are Commenced they may provide for their own Members by a Divident, and every one of them have his own, and their *Creditors* never a penny unless they can catch it in the *Indies*.

The *Creditors* of the *Company of Grocers*, and *Merchant-adventurers* thought those *Companies Seals* as good as yours, for

for far above a 100000 £. value, and the Members of either Company are Rich enough; yet they laugh at their Creditors, and have not the Honesty, as I can hear, to offer them Half a Crown in the Pound.

Yet I doubt your Case is more Hazardous, the East-India Company Trading wholly with their Creditors Money, and running no risk of their own: 'tis seldom that they have much above 600000 £. in value in their India Factories, and upon the Seas at one time, which is all their Creditors Money; and if their Factories and Goods should be destroyed by the Indians, or Infidels, and their Ships lost, or taken in war, or by Pyrates, they can secure their own Stock to that Value, by a speedy Divident of what they have here; and then bid their Creditors find a thing in the Clouds, called their Company, to Arrest for their Moneys at the best; you are at the Mercy and Will of you know not whom for your Moneys, and the Company may be bold at Sea and Land to make war against whom they please in the Indies, to build Forts and Castles, and to take Mens Persons and Goods there by force of Arms; if they prosper, they make 20 or 40 per Cent. of your Moneys, and pay you 6 per Cent. whilst their Company lasts; and if they miscarry in any kind, they cannot loose, if they keep but as much in Bank of Money and Goods as will answer their particular Stock.

One thing I cannot omit to observe out of the Company's Patent, That the King, who empowered them to use a Common Seal, thought it not sufficient Security to him for six Months for his Customes and Duties that should be payable for their Goods Imported, he grants that his Officers shall give them two several six Months for the Payment of their Customs, they giving good and sufficient Bond with Surety to the use of Us, our Heirs, and Successors for the true Payment of the same, (so are the words) and if you and your Counsel had been as Cautious

tious as his *Majesty* and his *Council*, you would have had some of the *Company's Bond* and a *Surety* too, before you had parted with your *Money*: But I believe they had never been such *Bankers*, as to have deserved *Court-Letters* about their *Officers*, if they had been forced to give their *Bond* with *Surety* for their many 100000 £. they have borrowed; perhaps the great *Usurers* of that *Company* would not then have put out their own *Monneys* upon *Bond Security*, and taken up yours to Trade with.

It was pity the *Lombord-street Bankers* had not a *Pattent* with a *Common Seal*, and to have been made a *Company*, and by your Example the People might have lent them *Millions* upon their *Seals*, and they might have lent it again for *double* or *treble Interest*, and payed *single* as long as they had Received *double*; and when they had failed, their *Persons* and *Estates* had been secure without fear of *Bayliffs*, or *Statutes of Bankerupt*.

If this seem sharp upon you, excuse me, you deserve it, that would not Advise with me before you parted with your *Money*, when you know it would have cost you nothing: but perhaps you will hope that this *Company* will be more honest than some others, or at least that their prospect of Gain in this Trade, will make them pay well, that they may continue their vast profit of other mens *Money* without hazard.

I confess this might quiet your mind a little, till you could get some *Security* for your *Money*, if this *East-India Company* had any firm Legal Foundation, or any probability of standing and enjoying the sole Trade of half the World, as now they do, but see their *Pattent* on which they stand, which grants to the *Governors and Company*:

That they and their Successors, &c. shall for ever hereafter use and enjoy the whole intire and only Trade and Traffick, and the whole entire, and only Liberty, Use and Priviledge of Trading,

ding, Trafficking, and using the Trade of Merchandise to & from the East-Indies, &c. And farther saith the Patent, by Virtue of Our Prerogative Royal, which we will not in that behalf have argued, or brought into question, we straightly prohibit, &c. all the Subjects of Us, our Heirs and Successors, that none of them do directly or indirectly, Visit, Trade or Traffick, or adventure by way of Merchandise, into, or from any of the East-Indies, &c. except the said Governor and Company, &c. under the penalty of Our Indignation, and the Forfeiture of all Goods whatsoever so to be brought into this Realm, or any of our Dominions, the one half of all the Forfeitures to be to Us, our Heirs, &c. and the other half is granted to the Company: and all and every Offenders therein, for their Contempt to suffer Imprisonment during Our pleasure, and such other Punishment as to Us, our Heirs, &c. shall seem meet, and not to be delivered till every of them be bound to the Governor in 1000 l. at least, never to Sayl or Traffick into the said East-Indies, &c. And we do grant to you the Governor, &c. to Seize upon the Persons of all such English, or any our Subjects in the said East-Indies, which shall Sayl thither, or Inhabit there without their leave &c. or that shall disobey their Orders, &c.

I need not tell you (that are of the Commission of the Peace, and have Read the Statutes) the Invalidity of this Patent; you have Read (I am sure) the Statute of 21. Jac. cap. 3. whose preamble contains a Judgment in Parliament; That all Grants of Monopolies are against the Antient and Fundamental Laws of this Kingdom.

And our Law-Books define a Monopoly, to be An Institution or Allowance by the King by his Graunt, Commission, or otherwise, to any person, body Politick or Corporate, of or for, the only buying, selling, or using of any thing whereby any person or persons are sought to be restrained of any Freedom or Liberty which they had before, or bindred in their Lawful Trade or Traffick.

I must light a Candle to the Sun if I should endeavour to evince the Governor's and Company's Patent to be a Grant of a *Monopoly*: I may call it the *Monopoly of Monopolies*, that restrains almost all English men from their lawful Visiting, and Trafficking into so many parts of *Asia, Africa, and America*, as includes half the world.

One such Patent more for the sole Trade of the other half of the world, to such another Number of men, or to half a hundred of the *Courtiers* (and Sir John B. to be the first Governor) might raise some Millions by the year for Licences to Traders, to Sail and Traffick to several Countreys; besides the Fines and Forfeitures which would amount to much more; and two such Companies might well allow to the Crown 120000 £. per. mensem, and excuse our Land of all Subsidies, and Taxes for ever.

'Tis worth the observing; That the words of the Statute are of as large extent, as the wits of men could invent, to prevent the Restriction of any Liberty of Trade whatsoever; And last Penalties upon the Grantees, injured by the Statutes, should not deter them to accept such Grants from the Crown: The Statute provides, That all persons Bodies, Politick and Corporate, which then were, or thence after should be, should stand and be disabled and incapable to have, use, exercise or put in use, any such Monopolies. It makes an incapacity in every body to take any such Graunt of a sole Trade, to restrain the Freedom of the People: Now the Governor and the Company I speak of, being incapable to take such a Patent, do you judge, whether this Company hath any Subsistance, or Being in Law, and thence you can collect, the true value of their Seal, that hath passed for so much Money, and the probability of their standing.

But this Patent ought to have some other name than a *Monopoly*: It Creates Forfeitures of the Estates of all Englishmen

men that dare dwell in; or Visit; or Trade to half the world: It gives power over their Persons to Imprison and keep in Custody during pleasure: & Asserts on Creatures an Arbitrary Power in the Crown of punishing English-men by Discretion after they are Imprisoned, and their Estates seized: It subjects all English-men that accept for necessities sake of Employments under the Governor and Company to be punished at the will of them and their Servants according to Discretion, not excepting Life it self, either from the Crown in the first place, or the Company in the next.

I cannot but wonder what Lawyer drew this Patent: Every pany Master in our Halls knows, That no Forfeitures of any kind can grow by Letters Patents: for it was adjudged in the 41. Eliz. fol. 125. Case de Londres, King Henry the 6th granted to the Corporation of Dyers in London, That every Cloth Dyed with Logwood should be Forfeited; and their Charter containing this Forfeiture, was judged, against the Law of the Land, and Magna Charta.

Every Lawyer also knows, That no Patent can restrain the Liberty of the Subject in anything. In the 41. Eliz. Davenant and Hounds Case. The Merchant-Taylers having power by Ancient Charter to make Ordinances for their Society, Ordained, That every Brother of that Society should put one half of his Cloaths to be dressed by some Cloth-worker free of the Company upon the Forfeiture of ten shillings: That Ordinance was adjudged to be against the Law; for that Every Subject hath a Freedom to put his Cloaths to be dressed by whom he will. King Philip and Queen Mary granted a Patent to the Town of South-hampton, That all Malmsey Wines brought into this Realm should be Landed only at their Port, with a Prohibition, That no person should do otherwise under pain of treble Customs. And it was Resolved by all the Judges, That the Grant being in Restraint of the Freedom of the People for Landing Wines,

was against the Law and Great Charter, and merely void.

I protest I am astonished! Could any man in a Gown, *Solicitor or Attorney General* be ignorant, That every English-man hath such a *Property* in his *Estate, Privileges, Liberty, Person, Limb and Life*, That none of them can be subject to be Seized, Forfeited, or any way destroyed, but by force of *Laws* made by the Free Consent in *Parliament*: Is not this the Distinction between the *Turkish and French Vassals* and *Free-born Englishmen*? I say again, how durst any *Lawyer* draw this *Patent*?

You see now, I am a little Zealous in my own Profession of the *Law*, being Sworn to it: But I doubt I shall put you into a worse Fright about the *Seal* for your *Money*, if I should tell you that I am afraid, That the *Governor and Company* I talk of, having Petitioned for, and accepted such a *Patent*, are in danger not only to pay treble Damages to all whom they have Abused, Hindred, Grieved, or Disturbed in their *Trades* to the *Indies* by Colour of their *Patent*, according to the Statute of 21. Jac. cap. 3. (and perhaps such Damages may amount to some 100000*l.* at least) But they are also in hazard to be Punished and Fined by the *Common Law*, and especially by *Parliament*, for Seeking for, Propounding and Accepting such a *Patent*.

Doubtless every Offence against the Fundamental *Law* is punishable: It was one of the Articles against *William Delapool*, Duke of *Sussex*, That he had procured from the Crown divers Liberties in Derogation of the Common *Law*: See Rol. Parl. 28. Hen. 6. Num. 30. In the 5th Ed. 3. *John Peachy* of *London* was severely punished for procuring a *Patent* for sale Wending of *Sweet Wines*. You know what was done to some in King *James* and the late King's time for petty Restraint procured upon *Trade*.

Yet I must confess and farther tell you, That the Security is the worse, because of the Fear of such Questioning in

Parliament may at any time make the Governor and Company Dissolve their Corporation; which they may do any Spring, by omitting to choose a Governor and Committees between the tenth and last of April: And as the Patent is drawn, Restraining them from all Powers not therein expressed.

I doubt such an Omission, after a Divident amongst themselves, to save their own Stock, may Dissolve the Corporation, if it had been well Founded by a Legal Graunt of Powers, and Priviledges, which were in the Kings power to Give: But the Patent being such; as you may from hence collect, I should trouble you in vain, to shew you how the Company depends upon the Kings pleasure; And upon what easie terms he may Null it if they offend him.

Do not suffer any to deceive you with hopes of this Company's standing, under pretence of some benefit that accrues to the Crown by Customs, or the Necessity of a Company; having Forts and Factories in those parts of the World, which could not be without a Governor and Company.

I that am no Trader know, That the Parliament could if it be a useful Trade to England (which I am no proper Judge of) have established Legally such Rules whereby the Trade might have been managed, and Factories, Forts and Castles maintained; and the Liberty of Trade might have been preserved to every English-man, and five times the Trade gained; and the price of our own Manufactures of Cloath and others, advanced, by the multitude and freedom of Buyers; and the price of the Goods Imported much lessened to the English, and much more Trade with these Commodities gained into other parts of the world. An Instance of this, is well known in the Turkey Company, where no Merchant can be excluded or denied to Trade with their particular Stock; yet the same pretences might have been for Restraint, that some do vainly suggest in this.

I have now done like one that loves you ; And have stoln time from my Clyents in the mid'st of Term to Answer your Desires at large. You may see by this, what Security you have for your Money by the Seal ; The Prudential part, how to come by it, I must refer to your self ; your share of Prudence being far Superior to that of,

SIR,

Your most Faith-

ful SERVANT.

SIR,

I Forgot to Observe to you, a thing Remarkable in my Opinion : It seems, many persons of great Quality, and eminent Merchants were Sutors to Q. Eliz. in the 41. of her Reign to be made a Body Corporate by the Name of the Governor and Company of Merchants Trading to the East-Indies, and a Patent was granted accordingly ; But no Prohibition is granted for others to Trade thither under the Forfeitures, Pains and Penalties, nor any grant of those extravagant Illegal Powers, unto which this present Company pretends : See the care of that Age to preserve Freedom and Property.

F I N I S.